

SENATE BILL No. 182

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-8-1.1.

Synopsis: Occupational safety and health (IOSHA) violations. Provides that the commissioner of labor may assess a civil penalty of up to \$25,000 against an employer that knowingly violates the occupational safety and health law (IOSHA) or certain safety standards, rules, or orders if the violation results in serious bodily injury or death. Makes technical corrections.

Effective: July 1, 2008.

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January 8, 2008, read first time and referred to Committee on Pensions and Labor.

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Introduced

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

SENATE BILL No. 182

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-8-1.1-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this
3 chapter, unless otherwise provided:
4 "Board" means the board of safety review created by this chapter.
5 "Bureau" means the safety education and training bureau created by
6 this chapter.
7 "Commission" means the occupational safety standards commission
8 created by this chapter.
9 "Commissioner" means the commissioner of labor or ~~his~~ **the**
10 **commissioner's** duly designated representative.
11 "Department" means the department of labor.
12 "Employee" means a person permitted to work by an employer in
13 employment.
14 "Employer" means any individual or type of organization, including
15 the state and all its political subdivisions, that has in its employ one (1)
16 or more individuals.
17 "Safety order" refers to a notice issued to employers by the

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commissioner of labor for alleged violations of this chapter, including any health and safety standards.

"Serious bodily injury" has the meaning set forth in IC 35-41-1-25.

"Standard" refers to both health and safety standards.

"Voluntary protection program" means a program offered by the United States Occupational Safety and Health Administration to employers subject to this chapter that exempts the employers from general scheduled inspections.

SECTION 2. IC 22-8-1.1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Each employer shall establish and maintain conditions of work which are:

(1) reasonably safe and healthful for employees; and

(2) free from recognized hazards that are causing or are likely to cause death or serious ~~physical harm~~ **bodily injury** to employees.

SECTION 3. IC 22-8-1.1-27.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 27.1. (a) The commissioner may assess the following civil penalties:

(1) Any employer ~~who~~ **that** has received a safety order for violation of any standard, rule, or order not of a serious nature may be assessed a civil penalty of up to seven thousand dollars (\$7,000) for each such violation.

(2) Any employer ~~who~~ **that** has received a safety order for a serious violation of any standard, rule, ~~or~~ order, or this chapter may be assessed a civil penalty of up to seven thousand dollars (\$7,000) for each such violation.

(3) Any employer ~~who~~ **that** fails to correct a violation for which a safety order has been issued within the period permitted may be assessed a civil penalty of up to seven thousand dollars (\$7,000) for each day during which the failure or violation continues.

(4) Any employer ~~who~~ **that** fails to comply with the posting requirements in this chapter may be assessed a civil penalty of up to seven thousand dollars (\$7,000) for each violation.

(5) Any employer ~~who~~ **that** repeatedly violates any standard, rule, ~~or~~ order, or this chapter may be assessed a civil penalty of up to seventy thousand dollars (\$70,000) for each violation.

(6) Any employer ~~who~~ **that** knowingly violates any standard, rule, order, or this chapter shall be assessed a civil penalty of not less than five thousand dollars (\$5,000) for each violation and may be assessed a civil penalty of up to seventy thousand dollars (\$70,000) for each violation.

(7) Any employer that knowingly violates any standard, rule,

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order, or provision of this chapter may be assessed a civil penalty of up to twenty-five thousand dollars (\$25,000) for each violation that results in serious bodily injury or death.

(b) For purposes of this section, a serious violation exists in a place of employment if there is a substantial probability that death or serious ~~physical harm~~ **bodily injury** could result from a condition which exists or from one (1) or more practices, means, methods, operations, or processes which have been adopted or are in use in the place of employment, unless the employer did not know and could not, with the exercise of reasonable diligence, have known of the presence of the violation.

SECTION 4. IC 22-8-1.1-39.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 39.1. (a) Whenever the commissioner is of the opinion that imminent danger exists in any workplace in this state, which condition can reasonably be expected to cause death or serious ~~physical harm~~ **bodily injury**, the commissioner, through the attorney general, may petition the circuit court of the county in which such workplace is located for appropriate relief. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct, or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary:

- (1) to avoid, correct, or remove such imminent danger; ~~or~~
- (2) to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations; or
- (3) ~~where a cessation of operations is necessary~~, to permit ~~such the cessation of operations~~ to be accomplished in a safe and orderly manner **when a cessation of operations is necessary**.

(b) Whenever and as soon as an inspector concludes that conditions or practices described in subsection (a) exist in any place of employment, ~~he the inspector~~ shall inform the affected employers and employees of the danger and that ~~he the inspector~~ is recommending to the commissioner that relief be sought.

(c) If the commissioner arbitrarily or capriciously fails to seek relief under this section, any employee who may be injured by reason of such failure, or the representative of such ~~employees~~ **employee**, may bring an action against the commissioner, in the circuit court of the county in which the imminent danger is alleged to exist or the employer has its principal office, for a writ of mandamus to compel the commissioner to seek such an order and for such further relief as may be appropriate.

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